

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Richard Moulton

v.

Civil No. 11-cv-391-PB

Carroll County Department of
Corrections, et al.

O R D E R

Richard Moulton filed a complaint that included a request for injunctive relief (doc. no. 1), alleging that he is being denied adequate dental care for his serious dental needs. The matter was referred to this magistrate judge for consideration and a recommendation (doc. no. 5). A hearing was held on the motion on September 9, 2011.

At the hearing, the plaintiff testified that he had recently seen a dentist in Strafford County who had prescribed antibiotics for him as a necessary precursor for any dental work. It is not clear whether a follow-up appointment has been scheduled for Moulton, or what the dentist's intention was regarding dental work to be performed on Moulton.

Carroll County Department of Corrections Superintendent Jason Johnson testified at the hearing that prior to making a determination as to what dental care he would authorize the County to provide for an inmate, he would consult with the

treating dentist. The court finds that, generally speaking, consultation with the treating dentist prior to making a decision regarding treatment authorization is appropriate. It does not appear, however, that this has occurred in this case. Further, there is scant medical evidence in the record upon which this court can rely in evaluating the treatment decisions of the defendants.¹ Such evidence would assist the court in rendering an appropriate recommendation for the disposition of Mr. Moulton's request for injunctive relief.

Accordingly, the court now directs as follows:

1. Defendants are instructed that, within two business days of the date of this order, they must schedule an appointment for Mr. Moulton to be seen by a dentist within thirty days of the date of this order. The purpose of this appointment is for the dentist to examine Mr. Moulton and make an assessment as to the condition of his teeth and a recommendation as to treatment. If the dentist Mr. Moulton has recently seen in Strafford County is able both to make a

¹ While the medical evidence is scant, it is not nonexistent. Moulton's medical records, provided by the defendants and accepted in evidence at the hearing, contain an entry regarding Moulton's April 27, 2011, dental appointment that includes the following: "The dentist explained that to save his teeth & to keep him out of pain he would need root canals, post & beam (core) & crowns." This note is consistent with Moulton's hearsay testimony regarding what the dentist told him.

treatment recommendation and to render an opinion regarding extraction based on his most recent, prior examination of Mr. Moulton, without any further examination of Mr. Moulton, a follow-up appointment need not be scheduled at this time to satisfy this order.

2. After Mr. Moulton is seen by a dentist, defendants are directed to obtain from the dentist a written report indicating: (a) the condition of Mr. Moulton's teeth; (b) what dental work the dentist recommends be performed in order to treat Mr. Moulton; and (c) whether, based on the dentist's professional opinion, extraction of any of Mr. Moulton's afflicted teeth is a reasonable treatment option for Mr. Moulton, and the reasons for the dentist's opinion regarding extraction.

3. The dentist's report is to be served upon Mr. Moulton and filed under seal, within fourteen days of the date of Mr. Moulton's dental appointment, or within fourteen days of the date of this order if the Strafford County dentist who recently examined Mr. Moulton renders the report, without re-examining Mr. Moulton.²

4. Within five days of the date of this order, Mr. Moulton must, if he has not already done so, provide defendants

²The Clerk's office is directed to seal the report provided by the dentist when the report is filed.

with a signed authorization for the release of his dental records, to enable defendants to comply with this order.

5. Defendants are directed to file simultaneously with the dentist's report, a statement as to what, if any, dental treatment they intend to provide to Mr. Moulton. If defendants, after receiving the dentist's report, do not intend to provide Mr. Moulton with dental treatment, or decline to adopt the recommendations of the dentist, they should provide this court with a statement explaining why they do not intend to provide that treatment.

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

Date: September 12, 2011

cc: Richard Moulton, pro se
Stephen A. Murray, Esq.